

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

DAVID TREVINO, #444918 §  
VS. § CIVIL ACTION NO. 9:05cv107  
GARY L. JOHNSON, ET AL. §

ORDER OF DISMISSAL

Plaintiff David Trevino, an inmate previously confined at the Gib Lewis Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the lawsuit should be dismissed for failure to prosecute and failure to obey an order in that the Plaintiff failed to comply with an order to pay an initial partial filing fee of \$9.08. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit. The Plaintiff asserted in his objections that his aunt submitted a money order for the initial partial filing fee, and he asked that the Court review its records. The Court has reviewed its records and there is no record of the initial partial filing fee being paid in the Plaintiff's behalf. The Plaintiff's objections lack merit. Therefore the Court hereby adopts the

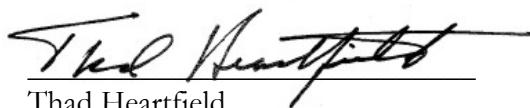
findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the Plaintiff's claims about matters that occurred in 2004 are **DISMISSED** without prejudice. Fed. R. Civ. P. 41(b). Rule 41, Local Rules for the Eastern District of Texas. It is further

**ORDERED** that the Plaintiff's claims about matters that occurred in 2002 are **DISMISSED** with prejudice. Fed. R. Civ. P. 41(b); Rule 41, Local Rules for the Eastern District of Texas. It is finally

**ORDERED** that all motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this the 7 day of July, 2005.



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Thad Heartfield  
United States District Judge